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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re

CASH CLOUD, INC.,
dba COIN CLOUD,

Debtor.

Case No. BK-23-10423-mkn

Chapter 11

**EX PARTE APPLICATION FOR ORDER
SHORTENING TIME FOR HEARING
DEBTOR'S MOTION FOR ORDER:
(A) CONFIRMING AUCTION RESULTS;
(B) APPROVING THE SALE OF
CERTAIN OF DEBTOR'S ASSETS TO
HELLER CAPITAL GROUP, LLC,
GENESIS COIN, INC. AND
CHRISTOPHER MCALARY FREE AND
CLEAR OF LIENS CLAIMS,
ENCUMBRANCES,
AND OTHER INTERESTS;
(C) AUTHORIZING THE ASSUMPTION
AND ASSIGNMENT OF CERTAIN OF
THE DEBTOR'S EXECUTORY
CONTRACTS AND UNEXPIRED LEASES
RELATED THERETO; AND
(D) GRANTING RELATED RELIEF**

Hearing Date: N/A

Hearing Time: N/A

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Cash Cloud, Inc. d/b/a Coin Cloud (“Cash Cloud,” or “Debtor”), debtor and debtor-in-possession in the above-captioned Chapter 11 case (the “Chapter 11 Case”), by and through its undersigned counsel, Fox Rothschild LLP, hereby files this *Ex Parte Application For Order Shortening Time For Hearing* (the “Application”) on Debtor’s *Motion for Order (A) Confirming Auction Results; (B) Approving the Sale of Certain of Debtor’s Assets to Heller Capital Group, LLC, Genesis Coin, Inc. and Christopher McAlary Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (C) Authorizing the Assumption and Assignment of Certain of the Debtor’s Executory Contracts and Unexpired Leases Related Thereto; and (D) Granting Related Relief* (the “Sale Motion”).¹ This Application is made and based upon the following points and authorities, the *Declaration of Brett A. Axelrod* (the “Axelrod Declaration”) in support hereof and attached as **Exhibit A** hereto, the Attorney Information Sheet filed concurrently herewith, and the pleadings and papers on file in the above-captioned chapter 11 case, judicial notice of which is respectfully requested.

WHEREFORE, for the reasons set forth herein, Debtor respectfully requests that the Court hear the Sale Motion on an order shortening time and requests a hearing date of **June 28, 2023 at 10:30 a.m.** and grant such other and further relief as may be just and proper.

Dated this 16th day of June, 2023.

FOX ROTHSCHILD LLP

By: /s/Brett A. Axelrod
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Counsel for Debtor

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the Sale Motion.

1 **POINTS AND AUTHORITIES**

2 **I.**

3 Debtor, by this Application, pursuant to Bankruptcy Rule 9006 and Rule 9006 of the Local
4 Bankruptcy Rules for the United States Bankruptcy Court, District of Nevada (the “Local Rules”),
5 seeks an order shortening time for notice and hearing for the Sale Motion.

6 **The Relief is Authorized by Rule 9006 and Meets Due Process Requirements.**

7 Bankruptcy Rules 9006(c)(1) and (d) authorize a court to reduce the time for a hearing, and
8 a party to file an *ex parte* motion to shorten the time for a hearing. Bankruptcy Rule 9006(c)(1)
9 provides in relevant part:

10 In General. Except as provided in paragraph (2) of this subdivision,
11 when an act is required or allowed to be done at or within a specified
12 time by these rules or by a notice given thereunder or by order of court,
the court for cause shown may in its discretion with or without motion
or notice order the period reduced.

13 Fed. R. Bankr. P. 9006(c)(1).

14 Courts have generally acknowledged that such expedited relief does not violate due process
15 rights, *even if the motion to shorten time is made ex parte*. “Bankruptcy Rule 9006(c) permits the
16 bankruptcy court ‘for cause shown’ in its discretion, with or without motion or notice, to reduce the
17 notice period, and ex parte motions for material reductions in the notice period are routinely granted
18 by bankruptcy courts.” Hester v. NCNB Texas Nat’l Bank (In re Hester), 899 F.2d 361, 364 n. 3
19 (5th Cir. 1990); see also 10 Collier on Bankruptcy 9006.09 (16th ed. 2019 rev.); In re Gledhill, 76
20 F.3d 1070 (10th Cir. 1996).

21 Cause exists for the Court to shorten time on the Sale Motion. It is critical that the Sales close
22 as soon as possible, not only to retain the value of the Sale Assets, but also to prevent Debtor’s
23 continued incurrence of administrative expenses that reduce any potential recovery to unsecured
24 creditors. In addition, Debtor is concerned about the deterioration of the Sale Assets, in light of
25 Debtor’s severely diminished cash flow. Debtor has been forced to cease operations to limit its cash
26 burn. Debtor has borrowed the maximum amount under its DIP loan and Debtor’s DIP lender is
27 demanding payment in full promptly upon the closing of the Sale Assets. Each passing day brings
28 increasing uncertainty regarding Debtor’s future, leading to potentially greater losses for Debtor and

its estate. Moreover, the Buyers require the Sales to close no later than July 21, 2023. As such, the Debtor needs to consummate the Sale as expeditiously as possible.

On April 28, 2023, Debtor served its all parties on Debtor's matrix, which includes all of Debtor's creditors, with the *Notice of Bidding Procedures and Deadlines* (the "Sale Notice"). [See ECF No. 511, Exhibit H.] On May 15, 2023, Debtor served all parties on Debtor's matrix with the *Amended Notice of Bidding Procedures and Deadlines* (the "Amended Sale Notice"). [See ECF No. 589, Exhibit B.] Both the Sale Notice and the Amended Sale Notice gave notice of a June 12, 2023 deadline to object to the Winning Bid(s) selected at the Auction.

On June 5, 2023, Debtor filed its *Notice of Auction Results Regarding Sale of Substantially All of the Debtor's Assets* [ECF No. 618] ("Auction Notice"). On June 6, 2023, Debtor served the Auction Notice on all parties on Debtor's matrix. See *Certificate of Service* [ECF No. 263].

Copies of the Sale Motion and related pleadings shall be served on (a) the Office of the United States Trustee; (b) counsel to the Official Committee of Unsecured Creditors; (c) counsel to the DIP Lender; (e) Debtor's secured creditors and (f) the parties that have filed requests for special notice in the Chapter 11 Case. Notice of the Sale Motion shall be served by first class mail on all parties on Debtor's matrix.

Counsel Has Conferred With the Notice Parties.

Prior to filing this Motion, and pursuant to Local Rule 9006, Counsel consulted the parties as shown on the Attorney Information Sheet For Proposed Order Shortening Time, filed concurrently herewith and incorporated by reference herein.

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II.

CONCLUSION

WHEREFORE, for all of the foregoing reasons, Debtor respectfully requests that the Court hear the Sale Motion on an expedited basis, set the hearing on the Sale Motion for June 28, 2023 at 10:30 a.m., and grant such other and further relief as may be just and proper.

Dated this 16th day of June, 2023.

FOX ROTHSCHILD LLP

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EXHIBIT A

DECLARATION AFFIRMING REQUESTED RELIEF

I, Brett A. Axelrod, declare under penalty of perjury that: I am competent to make this declaration under the laws of the United States and the State of Nevada; I have read the above Application for an Order Shortening Time; and the facts stated therein are true and correct to the best of my knowledge, information and belief.

DATED this 16th day of June 2023.

By /s/Brett A. Axelrod
BRETT A. AXELROD